DESCRIPTION OF THE CHAIRMAN'S MARK OF A BILL TO PREVENT IDENTITY THEFT AND TAX REFUND FRAUD

Scheduled for Markup
Before the
SENATE COMMITTEE ON FINANCE
on September 16, 2015

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

September 11, 2015
JCX-108-15

CONTENTS

INTRODUCTION

The Senate Committee on Finance has scheduled a committee markup on September 16, 2015 of a bill to prevent identity theft and tax refund fraud. This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the Chairman's mark with respect to identity theft and tax refund fraud.

[1] This document may be cited as follows: Joint Committee on Taxation, "*Description of the Chairman's Mark of a Bill to Prevent Identity Theft and Tax Refund Fraud*" (JCX-108-15), September 11, 2015. This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

1. Require the Internal Revenue Service ("IRS") to develop guidelines for identity theft refund fraud cases to reduce burdens for victims

Present Law

Disparate elements in the tax laws and administration are implicated in identity theft. The tax aspects of identity theft can generally occur in one of two ways. In refund fraud, a perpetrator obtains someone else's identifying information and submits an individual income tax return using the name and Social Security number of the victim, with a falsified Form W-2, Wage and Tax Statement, and fraudulently claims a refund. In other cases, the stolen identifying information is used in order to obtain employment; the returns then filed by the persons employed using the stolen identity may be based on the actual wages and withholding. Victims of the fraud include the individuals whose identifying information was stolen as well as the businesses whose systems may have been breached to obtain that personal information.

The IRS describes its procedures for addressing both types of fraud in its manual. Its work is coordinated by the IRS' Identity Protection Program through the auspices of an oversight office.[2]

In her 2014 Annual Report to Congress, the National Taxpayer Advocate included a review of fraudulent refund claims that included the theft of a taxpayer's identity.[3] The review found that such cases involved multiple issues requiring coordination among several business units of the IRS, and took approximately six months to resolve. Identity theft victims were required to deal with multiple persons within the IRS to resolve the issues, either because a case involved multiple business units or was transferred among multiple employees within a business unit.

Description of Proposal

The proposal requires that the IRS, in consultation with the Office of the National Taxpayer Advocate, develop publicly available casework guidelines for the handling of refund fraud cases that would have the effect of reducing the burdens on victims of identity theft. The guidelines may address both procedures and metrics for determining whether the procedures are successfully implemented. Among the issues to be considered are the standards for opening, assigning, reassigning or closing a case; the average length of time a case with an identity theft issue should be resolved; the average length of time a victim entitled to a tax refund will have to wait to receive such refund; and the number of IRS offices and employees with whom a victim should interact to resolve a case.

---

[2] Internal Revenue Service, *Identity Protection Program*, Internal Revenue Manual paragraph 10.5.3, *et seq*. (December 2014).

[3] National Taxpayer Advocate, "*Identity Theft Case Review Report: A Statistical Analysis of Cases Closed in June 2014*," 2014 Annual Report to Congress, available at http://www.taxpayeradvocate.irs.gov/reports-to-congress/2014-annual-report-to-congress/research-studies.

Effective Date

The proposal is effective on the date of enactment, with guidelines to be implemented within six months of the date of enactment.

2. Require the IRS to prepare a report on identity theft refund fraud

Present Law

The IRS is not currently required to prepare reports on identity theft refund fraud.

Description of Proposal

The proposal requires the IRS to report to the Senate Committee on Finance and the House Committee on Ways and Means on the extent and nature of fraud involving the use of a misappropriated taxpayer identity with respect to claims for refund under the Internal Revenue Code of 1986 (the "Code")[4] during the preceding completed income tax filing season.

The report would discuss the detection, prevention, and enforcement activities undertaken by the IRS with respect to such fraud, including: detailing IRS efforts to combat identity theft fraud, including an update on the victims' assistance unit; providing an update on IRS efforts and results associated with limiting multiple refunds to the same financial accounts and physical addresses, with appropriate exceptions; and discussing IRS efforts associated with other avenues for addressing identity theft refund fraud (*e.g.*, the hash-based message authentication code).

The report would also provide an update on the implementation of the bill, analyze other ways to accelerate information matching, and identify the need for any further legislation to protect taxpayer resources and information, including preventing tax refund fraud related to the IRS e-Services tools and electronic filing identification numbers (EFINs).

Effective Date

The proposal would require five bi-annual reports, the first of which would be required to be provided by September 30, 2018.

3. Require the IRS to study the feasibility of blocking electronically-filed tax returns

Present Law

Under present law, taxpayers cannot elect to prevent the processing of any Federal tax return submitted in an electronic format.

[4] Except where otherwise stated, all references are to the Internal Revenue Code of 1986, as amended.

Description of Proposal

The proposal requires the Secretary of the Treasury (or his or her delegate) to provide a feasibility study to the Senate Committee on Finance and the House Committee on Ways and Means describing a program under which a person who has filed an identity theft affidavit with the Secretary may elect to prevent the processing of any Federal tax return submitted in an electronic format by that taxpayer or a person purporting to be that taxpayer. The study is due within 180 days after the date of enactment and should also include a recommendation on whether to implement such a program.

Effective Date

The proposal is effective on the date of enactment.

4. Criminal penalty for misappropriating taxpayer identity in connection with tax fraud

Present Law

The Code does not contain civil or criminal penalties specifically targeted at identity theft. Instead, most claims for tax refund-related identity theft are prosecuted as false claims under section 287 of Title 18, and are classified as felonies, generally punishable by a penalty of up to $250,000 and imprisonment for up to five years. In addition, section 1028A of Title 18 provides for the statutory crime of "aggravated identity theft" in cases where the identity of another individual is used to commit enumerated crimes and generally adds an additional two-year prison term (herein the "Aggravated Identity Theft Statute"). However, that section does not cover and specifically carves out any tax offenses under the Code or tax-related offenses under Title 18, including conspiracy to defraud the government with respect to claims, false, fictitious or fraudulent claims, or conspiracy.

The Code includes two provisions, sections 7206 and 7207, that cover fraud and false statements and fraudulent returns. Sections 7206(1) and (2) cover situations that could potentially involve identity theft. Those provisions make it a felony, punishable by a penalty of up to $100,000 ($500,000 for a corporation), imprisonment for up to three years, or both, plus prosecution costs, for a person who: (i) makes a false declaration under penalties of perjury; and (ii) aids or assists in the preparation or presentation of any return or other document that is false as to a material matter. Section 7207 treats as a misdemeanor the willful delivery or disclosure to any officer or employee of the IRS of fraudulent or false lists, returns, accounts, statements, or other documents, punishable by a penalty of up to $10,000 ($50,000 for corporations), imprisonment for up to a year, or both.

Description of Proposal

The proposal makes it a felony under the Code, punishable by a penalty of up to $250,000 ($500,000 for a corporation), imprisonment for up to five years, or both, plus prosecution costs, for a person to use a stolen identity to file any return or other document.

It is the sense of the Senate that this crime should also be added to the list of predicate offenses contained in the Aggravated Identity Theft Statute.

Effective Date

The proposal applies to offenses committed on or after the date of enactment.

5. Extend the IRS authority to require a truncated Social Security Number ("SSN") on Form W-2

Present Law

Section 6051(a) generally requires that an employer provide a written statement to each employee on or before January 31 of the succeeding year showing the remuneration paid to that employee during the calendar year and other information including the employee's Social Security number ("SSN"). The Form W-2, Wage and Tax Statement, is used to provide this information to employees and contains the taxpayer's SSN, wages paid, taxes withheld, and other information.

Other statements provided to taxpayers, such as Forms 1099, generally issued to any individual or unincorporated business paid in excess of $600 per calendar year for services rendered, are subject to rules under section 6109 dealing with identifying numbers. Section 6109 requires that the filer provide the taxpayer's "identifying number" which is an individual's SSN except as otherwise specified in regulations.[5] Accordingly, for Forms 1099, the Treasury Department has the authority to require or permit filers to use a number other than a taxpayer's SSN, including a truncated SSN (the last four numbers of the SSN).

Description of Proposal

The proposal revises section 6051 to require employers to include an "identifying number" for each employee, rather than an employee's SSN, on Form W-2. This change will permit the Department of the Treasury to promulgate regulations requiring or permitting a truncated SSN on Form W-2, under authority currently provided in section 6109(d).

Effective Date

The proposal is effective on the date of enactment.

6. Enhancements to the IRS PIN program

Present Law

In 2011, the IRS launched a pilot program to test the Identity Protection Personal Identification Number ("IP PIN"). The IP PIN is a unique 6-digit identifier that authenticates a return filer as the legitimate taxpayer at the time the return is filed. The IP PIN allows affected taxpayers to avoid delays in filing returns and receiving refunds. For the 2014 filing season, the IRS issued IP PINs to more than 1.2 million taxpayers who had identity theft markers on their

[5] See Treas. Reg. sec. 301.6109-1.

tax accounts.[6] The IRS also started a limited pilot program in January 2014 whereby taxpayers who obtained an electronic filing PIN through an IRS authentication website and live in the District of Columbia, Florida, or Georgia are provided an opportunity to obtain an IP PIN.[7] The IRS verified the presence of the IP PIN at the time of filing, and rejected returns associated with a taxpayer's account where an IP PIN had been assigned but was missing.

Description of Proposal

The proposal requires the Secretary of the Treasury (or his or her delegate) to issue an IP PIN to any individual requesting protection from identity theft-related tax fraud after the individual's true identity has been established and verified.

Effective Date

The proposal is effective on the date of enactment and is required to be available on a nation-wide basis by July 1, 2018.

7. Increase electronic filing of returns

Present Law

In general

The Internal Revenue Service Restructuring and Reform Act of 1998 ("RRA 1998")[8] states a Congressional policy to promote the paperless filing of Federal tax returns. Section 2001(a) of RRA 1998 set a goal for the IRS to have at least 80 percent of all Federal tax and information returns filed electronically by 2007.[9] Section 2001(b) of RRA 1998 requires the IRS to establish a 10-year strategic plan to eliminate barriers to electronic filing.

Present law requires the Secretary to issue regulations regarding electronic filing and specifies certain limitations on the rules that may be included in such regulations.[10] The statute requires that Federal income tax returns prepared by specified tax return preparers be filed

---

[6] Inspector General for Tax Administration, Department of the Treasury, *Identity Protection Personal Identification Numbers Are Not Provided to All Eligible Taxpayers* (TIGTA 2014-40-086), September 24, 2014, available at http://www.treasury.gov/tigta/auditreports/2014reports/201440086fr.html.

[7] Internal Revenue Service, *IP PIN pilot continues in Georgia, Florida and the District of Columbia*, available at http://www.irs.gov/Individuals/Identity-Protection-PIN-Pilot-Program.

[8] Pub. L. No. 105-206.

[9] The Electronic Tax Administration Advisory Committee, the body charged with oversight of IRS progress in reaching that goal reported that e-filing by individuals exceeded 80 percent in the 2013 filing season, but projected an overall rate of 72.8 percent based on all Federal returns. See Electronic Tax Administration Advisory Committee, *Annual Report to Congress*, June 2013, IRS Pub. 3415, page 6.

[10] Sec. 6011(e).

electronically,[11] and that all partnerships with more than 100 partners be required to file electronically. For taxpayers other than partnerships, the statute prohibits any requirement that persons who file fewer than 250 returns during a calendar year file electronically. With respect to individuals, estates, and trusts, the Secretary may permit, but generally cannot require, electronic filing of income tax returns. In crafting any of these required regulations, the Secretary must take into account the ability of taxpayers to comply at a reasonable cost.

The regulations require corporations that have assets of $10 million or more and file at least 250 returns during a calendar year to file electronically their Form 1120/1120S income tax returns (U.S. Corporation Income Tax Return/U.S. Income Tax Return for an S Corporation) and Form 990 information returns (Return of Organization Exempt from Income Tax) for tax years ending on or after December 31, 2006. In determining whether the 250 returns threshold is met, income tax, information, excise tax, and employment tax returns filed within one calendar year are counted.

Description of Proposal

The proposal relaxes the current restrictions on the authority of the Secretary to mandate electronic filing based on the number of returns required to be filed by a taxpayer in a given taxable period. First, it phases in a reduction in the threshold requirement that taxpayers have an obligation to file a specified number of returns and statements during a calendar year in order to be subject to a regulatory mandate. That threshold is reduced from 250 to 200 for calendar year 2018, from 200 to 150 for calendar year 2019, from 150 to 100 for calendar year 2020, from 100 to 50 for calendar year 2021, and from 50 to 20 for calendar years thereafter.

Second, the proposal requires that any individual income tax return prepared by a tax return preparer be filed electronically, regardless of the number of returns filed by such return preparers. The Secretary is authorized to waive this requirement if a tax return preparer applies for a waiver and demonstrates that the inability to file electronically is due to technological constraints such as lack of internet availability in the geographic location in which the return preparation business is operated.

Effective Date

The proposal is effective for returns with a due date, determined without regard to extensions, after December 31, 2016.

[11] Section 6011(e)(3)(B) defines a "specified tax return preparer" as any return preparer who reasonably expects to file more than 10 individual income tax returns during a calendar year.

8. Modify due dates for filing certain information returns

Present Law

Information returns concerning certain payments

Present law requires persons to file an information return concerning certain transactions with other persons.[12] These returns are intended to assist taxpayers in preparing their income tax returns and to help the IRS determine whether such income tax returns are correct and complete.

One of the primary provisions requires every person engaged in a trade or business who makes payments aggregating $600 or more in any taxable year to a single payee in the course of the payor's trade or business to file a return reporting these payments.[13] Payments subject to this reporting requirement include fixed or determinable income or compensation, but do not include payments for goods or certain enumerated types of payments that are subject to other specific reporting requirements. Other reporting requirements are provided for various types of investment income, including interest, dividends, and gross proceeds from brokered transactions (such as a sale of stock) paid to U.S. persons.[14]

The person filing an information return with respect to payments described above is required to provide the recipient of the payment with a written payee statement showing the aggregate payments made and contact information for the payor.[15] The statement must be supplied to payees by the payors by January 31 of the following calendar year.[16] Payors generally must file the information return with the IRS on or before the last day of February of the year following the calendar year for which the return must be filed.[17] However, the due date for most information returns that are filed electronically is March 31.[18]

---

[12] Secs. 6041-6050W.

[13] Sec. 6041(a). The information return generally is submitted electronically as a Form 1099 (*e.g.*, Form 1099-MISC, Miscellaneous Income) or Form 1096, Annual Summary and Transmittal of U.S. Information Returns, although certain payments to beneficiaries or employees may require use of Forms W-3 or W-2, respectively. Treas. Reg. sec. 1.6041-1(a)(2).

[14] Secs. 6042 (dividends), 6045 (broker reporting) and 6049 (interest) and the Treasury regulations thereunder.

[15] Sec. 6041(d).

[16] Sec. 6041(d).

[17] Treas. Reg. sec. 31.6071(a)-1(a)(3)(i).

[18] Sections 6011(e) and 6071(b) apply to "returns made under subparts B and C of part III of this subchapter"; Treas. Reg. sec. 301.6011-2(b) mandates use of magnetic media by persons filing information returns identified in the regulation or subsequent or contemporaneous revenue procedures and permits use of magnetic media for all others.

Information returns regarding wages paid employees

Payors must report wage amounts paid to employees on information returns and provide the employee with an annual statement showing the aggregate payments made and contact information for the payor by January 31 of the following calendar year.[19] For wages paid to, and taxes withheld from, employees, the payors must file an information return with the Social Security Administration ("SSA") by February 28 of the year following the calendar year for which the return must be filed.[20] The due date for these information returns that are filed electronically is March 31.

Under the combined annual wage reporting ("CAWR") system, the SSA and the IRS have an agreement, in the form of a Memorandum of Understanding, to share wage data and to resolve, or reconcile, the differences in the wages reported to them. Employers submit Forms W-2, Wage and Tax Statement (listing Social Security wages earned by individual employees), and W-3, Transmittal of Wage and Tax Statements (providing an aggregate summary of wages paid and taxes withheld) directly to SSA.[21] After it records the Forms W-2 and W-3 wage information in its individual Social Security wage account records, SSA forwards the Forms W-2 and W-3 information to IRS.[22]

Description of Proposal

The proposal requires that certain information returns be filed within 15 days of the due date (generally January 31) for employee and payee statements. The proposal also eliminates the extended due date for electronically filed information returns. Specifically, the proposal accelerates the filing of Forms W-2 and W-3, and Forms 1099-MISC (providing non-employee compensation, rents, prizes and awards, *etc.*). The due date for employee and payee statements remains the same.

The proposal also requires the Secretary of the Treasury to issue a report before 2018 to the Senate Committee on Finance and the House Committee on Ways and Means that identifies any other forms that should be due on an accelerated schedule to prevent tax refund fraud.

Effective Date

The proposal is effective for returns and statements relating to calendar years beginning after December 31, 2015.

---

[19] Sec. 6051(a).

[20] Treas. Reg. sec. 31.6051-2; IRS, "Filing Information Returns Electronically," Pub. 3609 (Rev. 12-2011); Treas. Reg. sec. 31.6071(a)-1(a)(3)(i).

[21] Pub. L. No. 94-202, sec. 232, 89 Stat. 1135 (1976) (effective with respect to statements reporting income received after 1977).

[22] Employers submit quarterly reports to IRS on Form 941, Employer's Quarterly Federal Tax Return, regarding aggregate quarterly totals of wages paid and taxes due. IRS then compares the W-3 wage totals to the Form 941 wage totals.

9. Safe harbor for *de minimis* errors on information returns, payee statements, and withholding

Present Law

Failure to comply with the information reporting requirements results in penalties, which may include a penalty for failure to file the information return,[23] to furnish payee statements,[24] or to comply with other various reporting requirements.[25] No penalty is imposed if the failure is due to reasonable cause.[26]

Any person who is required to file an information return statement, or furnish a payee statement, but who fails to do so on or before the prescribed due date, is subject to a penalty that varies based on when, if at all, the information return is filed. Both the failure to file and failure to furnish penalties are adjusted annually to account for inflation. In the Trade Preferences Extension Act of 2015,[27] the penalties were increased for information returns or payee statements due after December 31, 2015. The penalty amounts, whether they are limited to a maximum amount in a calendar year, and the changes enacted in the Trade Preferences Extension Act are described below.

Penalties with respect to returns or statements due before January 1, 2016.

If a person files an information return after the prescribed filing date but on or before the date that is 30 days after the prescribed filing date, the amount of the penalty is $30 per return ("first-tier penalty"), with a maximum penalty of $250,000 per calendar year. If a person files an information return after the date that is 30 days after the prescribed filing date but on or before August 1, the amount of the penalty is $60 per return ("second-tier penalty"), with a maximum penalty of $500,000 per calendar year. If an information return is not filed on or before August 1 of any year, the amount of the penalty is $100 per return ("third-tier penalty"), with a maximum penalty of $1,500,000 per calendar year. If a failure to file is due to intentional disregard of a filing requirement, the minimum penalty for each failure is $250, with no calendar year limit.

Lower maximum levels for this failure to file correct information return penalty apply to small businesses. Small businesses are defined as firms having average annual gross receipts for the most recent three taxable years that do not exceed $5 million. The maximum penalties for small businesses are: $75,000 (instead of $250,000) if the failures are corrected on or before 30 days after the prescribed filing date; $200,000 (instead of $500,000) if the failures are corrected

[23] Sec. 6721.

[24] Sec. 6722.

[25] Sec. 6723. The penalty for failure to comply timely with a specified information reporting requirement is $50 per failure, not to exceed $100,000 per calendar year.

[26] Sec. 6724.

[27] Trade Preferences Extension Act of 2015, Pub. Law No. 114-27, sec. 806 (June 29, 2015).

on or before August 1; and $500,000 (instead of $1,500,000) if the failures are not corrected on or before August 1.

Any person who is required to furnish a payee statement who fails to do so on or before the prescribed filing date is subject to a penalty that varies based on when, if at all, the payee statement is furnished, similar to the penalty for filing an information return discussed above. A first-tier penalty is $30, subject to a maximum of $250,000, a second-tier penalty is $60 per statement, up to $500,000, and a third-tier penalty is $100, up to a maximum of $1,500,000. Lower maximum levels for this failure to furnish correct payee statement penalty apply to small businesses. Small businesses are defined as firms having average annual gross receipts for the most recent three taxable years that do not exceed $5 million. The maximum penalties for small businesses are: $75,000 (instead of $250,000) if the failures are corrected on or before 30 days after the prescribed filing date; $200,000 (instead of $500,000) if the failures are corrected on or before August 1; and $500,000 (instead of $1,500,000) if the failures are not corrected on or before August 1.

In cases in which the failure to file a correct information return or to furnish a correct payee statement is due to intentional disregard, the minimum penalty for each failure is $250, with no calendar year limit. No distinction is made between small businesses and other persons required to report.

Penalties with respect to returns or statements due after December 31, 2015

The Trade Preferences Extension Act of 2015 increased the penalties to the following amounts for information returns or payee statements due after December 31, 2015. The first-tier penalty is $50 per return, with a maximum penalty of $500,000 per calendar year. The second-tier penalty increases to $100 per return, with a maximum penalty of $1,500,000 per calendar year. The third-tier penalty increases to $250 per return, with a maximum penalty of $3,000,000 per calendar year.

The lower maximum levels applicable to small businesses also were increased, as follows. The maximum penalties for small businesses are: $175,000 if the failures are corrected on or before 30 days after the prescribed filing date; $500,000 if the failures are corrected on or before August 1; and $1,000,000 if the failures are not corrected on or before August 1.

For failures or misstatements due to intentional disregard, the penalty per return or statement increased to $500, with no calendar year limit. No distinction between small businesses and other persons required to report is made in such cases.

Description of Proposal

The proposal creates a safe harbor from the application of the penalty for failure to file a correct information return and the penalty for failure to furnish a correct payee statement in circumstances in which the information return or payee statement is otherwise correctly filed but includes a *de minimis* misstatement of the amount required to be reported on such return or statement. In general, a *de minimis* misstatement of an amount on the information return or statement need not be corrected if the error for any single amount does not exceed $100. A

lower misstatement threshold of $25 is established for errors with respect to the reporting of an amount of withholding or backup withholding.

Effective Date

The proposal applies to information returns required to be filed and payee statements required to be furnished on or after the date of enactment.

10. Internet platform for Form 1099 filings

Present Law

The Code does not presently require the IRS to make available an internet platform for the preparation or filing of Forms 1099.

Description of Proposal

The proposal requires the Secretary of the Treasury (or his or her delegate) to make available, by January 1, 2020, an internet website or other electronic medium (the "website"), similar to the Business Services Online Suite of Services provided by the Social Security Administration.[28] The website will allow taxpayers, with access to resources and guidance provided by the IRS, to prepare, file, and distribute Forms 1099, and create and maintain taxpayer records. The proposal also requires the website to be available, by January 1, 2018, in a partial form that will allow taxpayers to prepare, file, and distribute Forms 1099-MISC.

Effective Date

The proposal is effective on the date of enactment.

11. Authority to transfer IRS appropriations to combat tax fraud

Present Law

Article I, section nine of the Constitution provides that "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." Under section 1301 of Title 31, public funds may be used only for the purposes(s) for which Congress appropriated the funds, except as otherwise provided by law. An officer or employee of the United States government cannot make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation.[29] Such officer or employee violating this rule will be subject to appropriate disciplinary measures, including when circumstances warrant, suspension from duty without pay or removal from office.[30] In addition,

[28] Available at http://www.ssa.gov/bso/bsowelcome.htm.

[29] 31 U.S.C. sec. 1341.

[30] 31 U.S.C. sec. 1349.

a Federal officer or employee who knowingly and willfully violates the rule is subject to a fine of up to $5,000, imprisonment of up to two years, or both.[31]

Section 101 of the Consolidated and Continuing Appropriations Act of 2015[32] allows the Internal Revenue Service ("IRS"), with advance approval of the Appropriations Committees, to transfer up to five percent of any appropriation:

- SEC. 101. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the Committees on Appropriations.

Description of Proposal

Under the proposal, for any fiscal year, the Commissioner of Internal Revenue may transfer not more than $10 million to any account of the IRS from amounts appropriated to other IRS accounts. Any amounts so transferred shall be used solely for the purposes of preventing, detecting, and resolving potential cases of tax fraud. In addition, such transfer of funds can only be made if it is determined that customer service to the general public (including telephone operations, forms and publications, and similar taxpayer assistance provided by the IRS) will not be impaired by such transfer. This authority to transfer $10 million among IRS accounts is in addition to any other permitted transfers of appropriations (such as the five percent referenced above).

Effective Date

The proposal is effective on the date of enactment.

12. Requirement that electronically-prepared paper returns include a scannable code

Present Law

Every citizen, whether residing in or outside the United States, and every resident of the United States within the meaning of section 7701(b) must file an income tax return if the individual has income that equals or exceeds the exemption amount.[33] Treasury regulations require individual taxpayers to make this return using a Form 1040, U.S. Individual Income Tax

[31] 31 U.S.C. sec. 1350.

[32] Pub. L. No. 113-235.

[33] Sec. 6012(a)(1); Treas. Reg. sec. 1.6012-1(a)(1).

Return.[34] Similarly, every corporation subject to Federal income tax, regardless of the amount of its gross or taxable income for the taxable year, is required to file a return.[35]

In 1998, Congress declared a policy that (1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns, (2) the IRS's goal should be to receive at least 80 percent of all returns electronically by 2007, and (3) the IRS should encourage private-sector competition to increase electronic filing.[36] Section 6011(f), also enacted in 1998, authorizes the Department of the Treasury to advertise the benefits of electronic tax administration programs and to make payment of appropriate incentives for electronically-filed returns.

The Department of the Treasury generally is authorized to prescribe regulations providing standards for determining which returns must be filed on magnetic media or in another machine-readable form. However, except under certain circumstances, the Department of the Treasury "may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts, to be other than on paper forms supplied by the Secretary."[37]

Description of Proposal

The proposal requires that taxpayers who prepare their returns electronically, but print and file the returns on paper must print their returns with a scannable code. A scannable code enables the IRS to convert paper-filed tax returns into an electronic format using scanning technology.

Effective Date

The proposal is effective for tax returns with a due date, determined without regard to extensions, after December 31, 2016.

13. Streamlined critical pay authority for information technology positions

Present Law

The IRS is currently subject to the personnel rules and procedures set forth in Title 5 of the United States Code. Under these rules, IRS employees generally are classified under the General Schedule or the Senior Executive Service.

---

[34] Treas. Reg. sec. 1.6012-1(a)(6).

[35] Sec. 6012(a)(2).

[36] The Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, sec. 2001.

[37] Sec. 6011(e)(1).

The IRS Restructuring and Reform Act of 1998 provided the IRS with certain personnel flexibilities, one of which was the streamlined critical pay authority.[38] This authority was originally provided for 10 years; it was extended on two occasions and ultimately expired on September 30, 2013.[39]

Prior to September 30, 2013, the Secretary of the Treasury, or his delegate, was authorized to fix the compensation of, and appoint up to 40 individuals to, designated critical technical and professional positions, provided that: (1) the positions require expertise of an extremely high level in a technical or professional field and are critical to the IRS; (2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position; (3) designation of such positions is approved by the Secretary; (4) the terms of such appointments are limited to no more than four years; (5) appointees to such positions are not IRS employees immediately prior to such appointment; and (6) the total annual compensation for any position (including performance bonuses) does not exceed the rate of pay of the Vice President.

These appointments would not be subject to the otherwise applicable requirements under Title 5. All such appointments would be excluded from the collective bargaining unit and the appointments would not be subject to approval of the Office of Management and Budget ("OMB") or the Office of Personnel Management ("OPM").

Also, OMB was authorized to approve increases in the pay level for certain critical pay positions requested by the Secretary. These critical pay positions would be critical, technical and professional positions other than those designated under the streamlined authority described above. OMB was authorized to approve requests for critical position pay up to the highest total compensation that does not exceed the rate of pay of the Vice President of the United States.

Description of Proposal

The proposal reinstates streamlined critical pay authority at IRS to certain designated information technology positions for a period starting on the date of enactment through September 30, 2020.

Effective Date

The proposal is effective on the date of enactment.

[38] Pub. L. No. 105-206, 112 Stat. 712 (1998).

[39] In December 2007, the Consolidated Appropriations Act, 2008, Pub. L. No. 110–161, 121 Stat. 1844, (2008), extended the original deadline to July 23, 2013. Subsequently, the Consolidated and Further Continuing Appropriations Act 2013, Pub. L. No. 113-6, 127 Stat. 198 (2013), extended the deadline to September 30, 2013.

14. Increased penalty for improper disclosure or use of information by preparers of returns

Present Law

The Code provides for a civil penalty for a tax return preparer who discloses any information furnished to the preparer for, or in connection with, the preparation of such return or uses such information for any purpose other than to prepare or assist in preparing, any such return.[40] There is a corresponding criminal penalty under section 7216 of the Code for knowing or reckless conduct. The civil penalty is $250 for each unauthorized disclosure or use up to $10,000 per calendar year.[41] The criminal penalty is a misdemeanor, punishable by up to $1,000, one year of imprisonment, or both, together with the costs of prosecution.

Section 6103(b)(6) defines "taxpayer identity" as the name of the person with respect to whom a return is filed, his mailing address, his taxpayer identifying number or a combination thereof.

Description of Proposal

The proposal increases the civil penalty on the unauthorized disclosure or use of information by tax return preparers from $250 to $1,000 for cases in which the disclosure or use is made in connection with a crime relating to the misappropriation of another person's taxpayer identity ("taxpayer identity theft"). The proposal also increases the calendar year limitation from $10,000 to $50,000. The calendar year limitation is applied separately with respect to disclosures or uses made in connection with taxpayer identity theft.

The proposal also increases the criminal penalty for knowing or reckless conduct to $100,000 in the case of disclosures or uses in connection with taxpayer identity theft.

Effective Date

The proposal applies to disclosures and uses made after the date of enactment.

15. Provide that the Department of the Treasury and the IRS have authority to regulate all paid tax return preparers

Present Law

Tax return preparers under the Internal Revenue Code

Tax assessment and collection in the United States depends on the voluntary compliance of taxpayers. In recent years, a significant and steadily increasing number of taxpayers discharge their duty to prepare and timely file accurate tax returns by seeking the advice and assistance of a

[40] Sec. 6713.

[41] The criminal violation is a misdemeanor, punishable by a fine of up to $1,000, one year in prison or both, together with the costs of prosecution.

paid tax return preparer.[42] For example, individual taxpayers filed about 142 million returns for tax year 2011, with nearly 79 million returns using paid tax return preparers.[43] Thus, the competence and professionalism of tax return preparers has an impact on taxpayer compliance. The Code subjects paid tax return preparers to various statutory standards of return preparation, obligations to make certain disclosures, and civil penalties for failure to comply.

The Code broadly defines the term "tax return preparer" as any person who prepares for compensation, or who employs other people to prepare for compensation, all or a substantial portion of a tax return or claim for refund.[44] A person is considered a tax return preparer when one prepares a substantial portion of a return, regardless of whether the person signs the return.[45] There are no specific educational or professional credentials required to be subject to the rules applicable to tax return preparers.[46] Persons whose duties are merely mechanical or clerical (such as keying in data, typing schedules, printing, or producing copies) are excepted from the definition of tax return preparers, as are IRS officials acting in the course of their official duties and certain volunteers.

While the Code provides standards of return preparation, disclosure rules, and civil penalties, neither the Code nor the related Treasury regulations require paid tax return preparers to meet any qualifications or competency standards before preparing tax returns or claims for refund.[47] Title 31 of the U.S. Code ("Title 31"), however, does regulate certain paid tax return preparers such as attorneys, certified public accountants ("CPAs"), enrolled agents, enrolled retirement plan agents, and certain other individuals. Because an increasing number of taxpayers use paid return preparers who are not regulated, the IRS has issued guidance that would extend these rules to such preparers.

---

[42] See Internal Revenue Service, Statistics of Income Bulletin, Historical Table 22, Number of Returns with a Paid Preparer Signature, Fiscal Years 2000-2011, available at http://www.irs.gov/uac/SOI-Tax-Stats-Historical-Table-22.

[43] IRS Compliance Data Warehouse, Individual Returns Transaction File and Return Preparers and Providers Database, TY 2011 (Mar 2013), as reported in Taxpayer Advocate Service, *2013 Annual Report to Congress*, vol. 1, page 61, available at http://www.taxpayeradvocate.irs.gov/2013-Annual-Report/full-2013-annual-report-to-congress/?vsmaid=11. This data only includes tax returns that are signed by paid tax return preparers. Thus, the data likely underestimates the number of Americans utilizing paid tax return preparers because many tax return preparers fail to sign tax returns, notwithstanding the penalty provided in section 6695(b).

[44] Sec. 7701(a)(36)(A); Treas. Reg. sec. 301.7701-15(a).

[45] Treas. Reg. sec. 301.7701-15(b).

[46] Treas. Reg. sec. 301.7701-15(d).

[47] However, these tax return preparers may be subject to State educational or testing (or both) requirements if they live in States that regulate tax return preparers, such as California, Maryland, New York, and Oregon. See IRS Publication 4832, *Return Preparer Review*, December 2009, p. 18.

Tax return preparers under Treasury regulations

Some, but not all, paid tax return preparers are regulated currently under Title 31 which authorizes the Secretary to regulate the practice of representatives before the Treasury. Under this authority, the Treasury Department has issued regulations in Treasury Department Circular No. 230 ("Circular 230"). Circular 230 provides that only attorneys, CPAs, enrolled agents, enrolled actuaries, enrolled retirement plan agents, and certain other specified individuals who meet certain requirements may practice before the IRS. Circular 230 authorizes the Director of the Office of Professional Responsibility to act on applications for enrollment to practice before the IRS, to make inquiries with respect to matters under the Director's jurisdiction, to institute and provide for the conduct of disciplinary proceedings relating to practitioners and appraisers, and to perform such other duties as necessary to carry out those functions.[48]

Prior to 2011, Circular 230 did not apply to an individual tax return preparer unless that person was an attorney, CPA, enrolled agent, enrolled actuary, enrolled retirement plan agent, or other type of practitioner defined in Circular 230. Thus, any individual could prepare tax returns and claims for refund without meeting the qualifications and competency standards provided in Circular 230. In June 2009, the IRS initiated a review of tax return preparers to ensure consistent standards of conduct for all tax return preparers and to increase taxpayer compliance. During this process, the IRS received input from the public and provided its findings in a report recommending increased oversight of the tax return preparer industry through regulations.[49]

In 2011, the IRS implemented its recommendations by issuing regulations under Circular 230 to regulate paid tax return preparers who were previously not covered.[50] These new regulations provide that only attorneys, CPAs, enrolled agents, and a new category, registered tax return preparers, may prepare tax returns for compensation.[51] Moreover, the regulations provide that any individual who is compensated for preparing or assisting with the preparation of all or substantially all of a tax return or refund claim is a practitioner, subject to Circular 230 requirements, and subject to sanction for violating the requirements.[52] Therefore, any individual who prepares a tax return for compensation and who is not an attorney, CPA, or enrolled agent

[48] Circular 230, sec. 10.1.

[49] IRS Publication 4832, *Return Preparer Review*, December 2009.

[50] T.D. 9527, Fed. Reg. 32286, Vol. 76, No. 107, June 3, 2011. The regulations now include a definition of "tax return preparer" that is consistent with the use of that term in the Code (see discussion in section A of this part, above). The regulations also require all preparers to obtain a "preparer tax identification number" ("PTIN") and to use such number on all returns with respect to which the person is considered a tax return preparer. The use of a preparer tax identification number was specifically authorized in section 6109(a)(4), which provides that such number must be included on all returns or claims for refund, when required by regulations prescribed by the Secretary.

[51] Circular 230, sec. 10.8(a).

[52] Circular 230, sec. 10.8(a) and (c). In addition, if an individual who is subject to sanction under Circular 230 acts on behalf of an employer, firm, or other entity, that employer, firm, or other entity is subject to sanction if it knew or reasonably should have known of actionable conduct. Circular 230, sec. 10.50(c)(1)(ii).

must obtain registered tax return preparer status.[53] A registered tax return preparer is any individual designated as such under Circular 230 who is not under suspension or disbarment from practice before the IRS.

The regulations require an individual who seeks to be a registered tax return preparer to pass a competency exam or otherwise satisfy standards prescribed by the IRS,[54] to attend continuing education courses,[55] to pass a compliance and suitability check,[56] and to possess a valid tax identification number ("PTIN") or other such number prescribed by the IRS in forms, instructions, or other guidance.[57] Since 2011, however, the D.C. District Court (and the D.C. Circuit affirming on appeal) has enjoined the Secretary of the Treasury from enforcing these regulations on the grounds that the Secretary's general authority to regulate practitioners is insufficient to permit regulation of return preparers who do not practice or represent taxpayers before an office of the Department of the Treasury.[58] These cases do not affect the requirement separately found under the Code and the regulations thereunder to possess a valid PTIN.[59]

---

[53] Any individual who is not an attorney, CPA, enrolled agent, or registered tax return preparer who prepares (or assists in preparing) returns or refund claims or any documents pertaining to any person's tax liability for submission to the IRS (or substantially all of the returns or claims, or a substantial portion of a document) for compensation is subject to Circular 230 rules and sanctions. Accordingly, even though such an individual is not authorized to prepare returns for compensation, he or she becomes subject to Circular 230 rules by reason of preparing returns for compensation. Circular 230, sec. 10.8(a), (c). The IRS has determined that individuals who are not attorneys, CPAs or enrolled agents may prepare and sign for compensation tax returns other than a Form 1040, U.S. Individual Income Tax Return, without having to pass a competency exam or take continuing education. See Notice 2011-6, 2011-3 I.R.B. 315. These individuals may obtain a PTIN, sign the returns they prepare, and may represent the taxpayer before the IRS with respect to a return they signed. They may not represent themselves to the public or to the IRS as a registered tax return preparer or a Circular 230 practitioner, but by preparing a tax return they become subject to Circular 230's rules and sanctions.

[54] See Notice 2011-6, 2011-3 I.R.B. 315; Circular 230, sec. 10.4(c).

[55] See Circular 230, sec. 10.6(f).

[56] See Circular 230, sec. 10.5(d). See also Circular 23, secs. 10.6 and 10.9 (requiring registered tax return preparers, enrolled agents, and enrolled retirement plan agents to take continuing education to satisfy renewal requirements).

[57] Circular 230, sec. 10.4(c).

[58] *Loving v. I.R.S.*, 917 F.Supp.2d 67 (D.D.C. 2013), (*Loving I)*, modified by *Loving v. I.R.S.*, 742 F.3d 1013 (D.C. Cir. 2014), (*Loving II*).

[59] Post *Loving I* and *Loving II*, preparers who were previously required to seek registered tax return preparer status are still required to obtain a PTIN under the authority of the section 6109 of the Code and can prepare returns and appear before the IRS in connection with returns they have prepared. See Notice 2011-6, 2011-3 I.R.B. 315.

Court cases related to application of Circular 230 to tax return preparers

In *Loving I*, a U.S. district court was asked to determine if under the Supreme Court's two-step analysis in Chevron,[60] the Department of the Treasury violated its statutory authority under Title 31 of the U.S. Code.[61] The Court held the general authority of the Secretary to regulate conduct before the Department of the Treasury was clear and could not be construed to include tax return preparation within its scope. The Court entered a preliminary injunction against enforcement of Circular 230 with respect to paid tax return preparers unless the paid tax return preparer is representing the taxpayer during an examination.

In *Loving II*, a U.S. Court of Appeals for the D.C. Circuit affirmed the judgment of the District Court after reviewing the decision de novo. The court rejected the IRS's argument that a paid tax return preparer is a "representative," citing the paid tax return preparer's lack of authority to legally bind the taxpayer. Additionally, the court rejected the IRS's argument that the meaning of "presenting a case" is irrelevant as the scope of the statute is not so limited. The court ruled that the statute's granting of authority to regulate those that "practice… before the Department of the Treasury" could not be constructed to encompass the preparing and signing of tax returns, as such, "practice" only includes traditional adversarial proceedings.[62]

As a result of *Loving I* and *Loving II*, the IRS is enjoined from requiring attendance or collecting fees with respect to the testing and education programs, and imposing penalties for failure to participate. However, in *Brannen v. United States*,[63] the IRS's PTIN program along with the required user fee was ruled to be lawful, and remains in effect. On a yearly basis, all paid tax return preparers are required under this program to register with the IRS to obtain a PTIN. Additionally, the plaintiffs in *Loving I* and *II* did not object to the IRS further regulating paid tax return preparers that represent taxpayers during an examination, and the court explicitly excluded such paid tax return preparers from its judgment.

Description of Proposal

The proposal provides the Department of the Treasury and the IRS authority to regulate all aspects of Federal tax practice, including paid tax return preparers. It amends Title 31 of the U.S. Code to encompass all aspects of Federal tax practice, without regard to whether or not it

---

[60] *Chevron U.S.A. Inc. v. Natural Res. Def. Council Inc.*, 467 U.S. 837 (1984).

[61] The first step of the *Chevron* analysis is to ask whether the intent of Congress is clear or ambiguous. If the intent of Congress is ambiguous, the reviewing court proceeds to the second step. The second step is to ask whether the agency's interpretation is a reasonable interpretation of the statute. *Loving I*, p. 8.

[62] *Loving II*, p. 12. Using similar reasoning, a district court permanently enjoined the IRS from enforcing the ban in Circular 230 on the use of contingent fee arrangements to compensate preparation of refund claims. Although the plaintiff was a certified public accountant who could be subject to the regulations of Circular 230 generally, the Court held that preparation of refund claims did not constitute practice before Treasury, and thus fees for such services were not subject to regulation by Treasury. *Ridgely v. Lew*, 55 F. Supp. 3d 89 (D.D.C. 2014).

[63] *Brannen v. United States*, 682 F. 3d 1316 (11th Cir. 2012) (holding that the regulation imposing a user fee to obtain a PTIN was correctly established in accordance with section 9701).

includes representation before the Treasury. It specifies that preparation of tax returns for compensation within the meaning of the Internal Revenue Code is subject to regulation. As a result of those changes, the interpretation of *Loving I* and *Loving II* is overridden legislatively, and the provisions of Circular 230 are enforceable.

The proposal also authorizes the IRS to revoke identifying numbers issued to tax return preparers for failure to comply with regulations under either the Code or Title 31.

The Senate Committee on Finance encourages the Department of the Treasury and the IRS to expeditiously (i) approve third-party examination and continuing education providers for purposes of allowing individuals to obtain registered tax return preparer status; (ii) establish a program for evaluating and approving State-based tax credential programs for purposes of providing individuals with registered tax return preparer status; and (iii) end the voluntary Annual Filing Season Program.

Effective Date

The proposal is effective on the date of enactment.

16. Improvement in access to information in the National Directory of New Hires

Present Law

The Office of Child Support Enforcement of the Department of Health and Human Services ("HHS") maintains the National Directory of New Hires (the "Directory"), which is a database that contains newly-hired employee data from Forms W-4, quarterly wage data from State and Federal employment security agencies, and unemployment benefit data from State unemployment insurance agencies. The Directory was created to help State child support enforcement agencies enforce obligations of parents across State lines.

Under the Social Security Act, the IRS may obtain data from the Directory for the sole purpose of administering the earned income credit ("EIC")[64] and verifying a taxpayer's employment that is reported on a tax return.[65] The IRS also may negotiate for access to employment data directly from State agencies responsible for such data, to the extent permitted by the laws of the various States. Generally, the IRS obtains such employment data less frequently than quarterly, due to the significant internal costs it incurs in preparing these data for use.[66]

[64] Sec. 32(a)(1).

[65] 42 U.S.C. secs. 653 and 653a.

[66] See Department of the Treasury, *General Explanations of the Administration's Fiscal Year 2016 Revenue Proposals*, February 2015, p.238.

Description of Proposal

The proposal amends the Social Security Act to expand IRS access to the Directory data for the sole purpose of identifying and preventing false or fraudulent tax return filings and claims for refund. Data obtained by the IRS from the Directory are protected by existing taxpayer privacy law.[67]

Effective Date

The proposal is effective on the date of enactment.

17. Taxpayer notification of suspected identity theft

Present Law

Section 6103 provides that returns and return information are confidential and may not be disclosed by the Internal Revenue Service ("IRS"), other Federal employees, State employees, and certain others having access to the information except as provided in the Code.[68] The definition of "return information" is very broad and includes any information gathered by the IRS with respect to a person's liability or possible liability under the Code for any tax, penalty, interest, fine, forfeiture, or other imposition or offense.[69] Thus, information gathered by the IRS

[67] See section 6103(b)(2)(A), providing that information received by or recorded by or furnished to the Secretary with respect to the existence or possible existence of a liability under Title 26 is return information. Section 6103(A) provides that return information is confidential and cannot be disclosed except as authorized. See section 7431, 7213 and 7213A for civil and criminal penalties for the unauthorized disclosure or inspection of return information.

[68] Sec. 6103(a).

[69] Sec. 6103(b)(2). Return information is:

- a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense,

- any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110,

- any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement, and

- any closing agreement under section 7121, and any similar agreement, and any background information related to such an agreement or request for such an agreement.

in connection with an investigation of a person for a Title 26 offense, such as fraud, is the return information of the person being investigated and is subject to the confidentiality restrictions of section 6103.

Under a Privacy Act notice, with respect to investigations other than those involving violations of Title 26, the Treasury Inspector General for Tax Administration may disclose the following information to complainants:

In cases not involving violations of Title 26, under a Privacy Act Notice, the Treasury Inspector General for Tax Administration is allowed to disclose information to complainants, victims, or their representatives (defined to be a complainant's or victim's legal counsel or a Senator or Representative whose assistance the complainant or victim has solicited) concerning the status and/or results of an investigation or case arising from the matters of which they complained and/or of which they were a victim, including, once the investigative subject has exhausted all reasonable appeals, any action taken. Information concerning the status of the investigation or case is limited strictly to whether the investigation or case is open or closed. Information concerning the results of the investigation or case is limited strictly to whether the allegations made in the complaint were substantiated or were not substantiated and, if the subject has exhausted all reasonable appeals, any action taken.[70]

Description of Proposal

The proposal provides that if the Secretary determines that there may have been an unauthorized use of a taxpayer's identity or that of the taxpayer's dependents, the Secretary shall (1) as soon as practicable and without jeopardizing an investigation relating to tax administration, notify the taxpayer of such determination, and (2) if any person is criminally charged by indictment or information relating to such unauthorized use, notify such taxpayer as soon as practicable of such charge. In addition, the Secretary shall disclose to the taxpayer (or such person's designee) whether an investigation has been initiated, is open or is closed. The Secretary shall disclose whether the investigation substantiated an unauthorized use of the taxpayer's identity, and, after exhaustion of reasonable appeals by the investigative subject, whether action has been taken with respect to the individual who committed the substantiated violation, including whether any referral has been made for prosecution of such individual. As under present law, the Secretary is not obligated to disclose return information the disclosure of which would seriously impair Federal tax administration.

Effective Date

The proposal applies to disclosures made after the date of enactment.

Return information does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

[70] See 75 Fed. Reg. 20715 (April 20, 2010) (relating to TIGTA Office of Investigation files).

18. Authenticate users of electronic services accounts

Present Law

The IRS has developed a suite of web-based products, called e-Services Online Tools for Tax Professionals, which provides multiple electronic products and services to tax professionals.

Description of Proposal

The proposal requires the IRS to verify the identity of any individual opening an e-Services account before he or she is able to use such services.

Effective Date

The proposal is effective 180 days after the date of enactment.

19. Repeal provision regarding certain tax compliance procedures and reports

Present Law

Under present law, taxpayers generally are required to calculate their own tax liabilities and submit returns showing their calculations. The IRS Restructuring and Reform Act of 1998 ("RRA") requires the Secretary of the Treasury or his delegate ("Secretary") to study the feasibility of, and develop procedures for, the implementation of a return-free tax system for appropriate individuals for taxable years beginning after 2007.[71] The Secretary is required annually to report to the tax-writing committees on the progress of the development of such system. The Secretary is required to make the first report on the development of the return-free filing system to the tax-writing committees by June 30, 2000.

Description of Proposal

The proposal repeals section 2004 of RRA.

Effective Date

The proposal is effective on the date of enactment.

[71] Pub. L. No. 105-206, sec. 2004.

20. Clarify the use of credentials by Enrolled Agents

Present Law

Treasury Department Circular No. 230 provides rules relating to practice before the IRS by attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others.[72]

Description of Proposal

The proposal amends Title 31 of the U.S. Code to permit enrolled agents meeting the Secretary's qualifications to use the designation "enrolled agent," "EA," or "E.A."

Effective Date

The proposal is effective on the date of enactment.

[72] As discussed above, another proposal in this Chairman's mark amends Title 31 of the U.S. Code to provide the Department of the Treasury and the IRS authority to regulate all aspects of Federal tax practice, including paid tax return preparers.